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January 27, 2006

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VIA HAND DELIVERY

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Marlene H. Dortch, Esq., Secretary
Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20554

JAN 27 2006

Federal Communications Commission
Office of Secretary

Attn: Telecommunications Access Policy Division, Wireline Competition Bureau

Re: Eckerd Youth Alternatives, Inc., Billed Entity Number 221272
CC Docket No. 02-6
Request for Review

Dear Ms. Dortch:

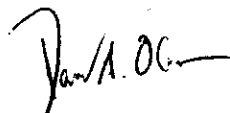
Transmitted herewith, on behalf of Eckerd Youth Alternatives, Inc., are an original and four (4) copies of a Request for Review of a decision of the Schools and Libraries Division of the Universal Service Administrative Company.

An extra copy of the filing is enclosed. Please date-stamp the extra copy and return it to the courier.

In the event there are any questions concerning this matter, please contact the undersigned.

Respectfully submitted,

HOLLAND & KNIGHT LLP



David A. O'Connor
Counsel for Eckerd Youth Alternatives, Inc.

Enclosure
cc: Service List

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**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

RECEIVED

JAN 27 2006

**Federal Communications Commission
Office of Secretary**

In the Matter of)
Request for Review of the)
Decision of the)
Universal Service Administrator by)
Eckerd Youth Alternatives, Inc.)
Schools and Libraries Universal Service)
Support Mechanism)

File No. SLD-_____

CC Docket No. 02-6

To: Secretary, FCC

For: Telecommunications Access Policy Division, Wireline Competition Bureau

Re: Eckerd Youth Alternatives, Inc., Billed Entity Number 221272

Funding Year 7, 7/1/2004- 6/29/2005

FCC Form 471 Application Numbers 423732, 427648, 428595, 428649, 428766, 429656,
and 429581 (*all for Internet access*)

REQUEST FOR REVIEW

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January 27, 2006

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Exhibits

- Exhibit 1: SLD's November 25, 2005 Decision
- Exhibit 2: EYA July 1, 2003 to June 30, 2004 Budget
- Exhibit 3: Members of EYA Consortium
- Exhibit 4: May 2004 Response of EYA to Selective Review
- Exhibit 5: SLD's December 3, 2004 Funding Commitment Decision Letter
- Exhibit 6: EYA Letter to SLD Dated December 14, 2004
- Exhibit 7: SLD's August 16, 2005 Funding Commitment Decision Letter

SUMMARY

Eckerd Youth Alternatives, Inc. (“EYA”) is appealing an E-rate funding denial issued by the Schools and Libraries Division (“SLD”) of the Universal Service Administrative Company. The sole question presented for review is whether EYA possessed the financial resources necessary to pay its 10% portion of the charges in Funding Year 2004-2005. As the Request for Review makes clear, EYA possessed more than sufficient financial resources to pay for its portion of the charges, and SLD’s finding to the contrary was in error. SLD was provided with EYA budget information for fiscal year 2004-2005 due to an apparent miscommunication between SLD and EYA, rather than information regarding the budget in place at the time that EYA submitted its Forms 471 and certified that it had sufficient funding to cover the non-E-rate portion of its funding request. However, regardless of whether SLD examined the budget information for fiscal year 2003-2004 or 2004-2005, the evidence submitted by EYA was sufficient to establish that EYA possessed more than adequate financial resources to meet its E-rate obligations. Accordingly, SLD’s decision to deny E-rate funding should be reversed, and SLD should be directed to grant EYA’s Funding Year 2004-2005 funding request in full.

Even if the SLD is not directed to grant EYA’s funding request in full, Commission precedent requires that the case be remanded to SLD for handling consistent with the decision in *Beginning with Children Charter School*, in order to afford EYA an opportunity to cure any perceived problems with its originally submitted budget and demonstrate compliance with the Commission’s necessary resources requirements.

3547351_v1

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Request for Review of the)	
Decision of the)	
Universal Service Administrator by)	
)	
Eckerd Youth Alternatives, Inc.)	File No. SLD-_____
)	
Schools and Libraries Universal Service)	CC Docket No. 02-6
Support Mechanism)	

To: Secretary, FCC
For: Telecommunications Access Policy Division, Wireline Competition Bureau

Re: Eckerd Youth Alternatives, Inc., Billed Entity Number 221272
Funding Year 7, 7/1/2004- 6/29/2005
FCC Form 471 Application Numbers 423732, 427648, 428595, 428649, 428766, 429656,
and 429581 (*all for Internet access*)

REQUEST FOR REVIEW

Eckerd Youth Alternatives, Inc. ("EYA"), by its counsel and pursuant to Section 54.719 of the Commission's rules, 47 C.F.R. § 54.719, hereby requests review of the November 28, 2005 decisions of the Administrator of Schools and Libraries Division ("SLD") of the Universal Service Administrative Company (the "SLD Decisions").¹ SLD denied all seven of EYA's above-referenced funding requests for Internet Access, for the purported reason that EYA did not secure access to the funds needed to pay EYA's portion of the Internet Access funding requests and certain canceled internal connections requests. For the reasons set forth below, EYA urges the Telecommunications Access Policy Division ("Division") to reverse the SLD Decisions and direct SLD to fund EYA's Internet access funding requests in full. In the alternative, consistent

¹ A sample copy of the Administrator's Decision is attached hereto as Exhibit 1. The rationale for denying the seven Forms 471 applications was the same in each Administrator Decision, all of which are dated November 28, 2005. Accordingly, this appeal is timely filed.

with the Wireline Competition Bureau's ("Bureau's") decision in *Beginning with Children Charter School*,² EYA requests that the Division remand the EYA applications to SLD to allow EYA an opportunity to cure any problems with its originally submitted budget information.

I. Background

EYA is a not-for-profit corporation formulated under the laws of the State of Florida, with an annual revenues and expenses of approximately \$75 million.³ Under Commission rules, EYA is considered a "consortium" of eligible schools.⁴

In E-rate funding year 2004-2005, EYA applied for funding for telecommunications services ("POTS"), Internet access, and internal connections for videoconferencing purposes.⁵ EYA timely posted its FCC Forms 470 in December 2003 and January 2004,⁶ using the annual budget that was approved by the EYA Board of Directors on June 15, 2003.

After waiting the required 28-day period, EYA timely filed its Form 471 applications, including the seven (7) Form 471 applications for Internet access at issue here, on February 3, 2004. On April 23, 2004, SLD sent a "Selective Review" letter to EYA regarding the POTS, Internet access, and internal connections requests.

Prior to submitting its response to the Selective Review process, EYA made the internal decision that it no longer wished to receive E-rate funding for videoconferencing, and so

² *Request for Review of the Decision of the Universal Service Administrator by Beginning with Children Charter School, Brooklyn, New York and Yeshiva Karlin-Stolin, Brooklyn, New York*, Order, CC Docket Nos. 96-45, 97-21, DA 03-245, 18 FCC Rcd 936 (rel. Jan. 30, 2003).

³ A copy of EYA's July 1, 2003 to June 30, 2004 budget is attached hereto as Exhibit 2.

⁴ 47 C.F.R. § 54.501(d). A list of the schools within the EYA consortium, along with their relevant billed entity information, is attached hereto as Exhibit 3.

⁵ SLD granted the POTS funding request in full and that funding is not at issue here.

⁶ Copies of the FCC Forms 470 and 471 submitted by EYA are available on the SLD website and therefore have not been attached to this pleading, but are available from EYA upon request.

informed SLD.⁷ Specifically, in the response, which was submitted on or about May 14, 2004, EYA stated: “EYA leadership has decided against pursuing [video conferencing] services this funding year and will not further pursue those funding requests. . . . EYA has decided to abandon the above listed funding requests.”⁸ EYA also stated in its response that “Eckerd Youth Alternatives will not pursue these services as previously stated. Therefore, Internal Connectivity services will not be sought this funding year as detailed below.”⁹ On Page 8 of its response, EYA stated: “No services will be sought this year for Internal connections. EYA will not be pursuing these services and has not included our share in our operations budget.”¹⁰ Because of this change, and because of apparent miscommunications between SLD and EYA, the budget submitted with its response to the Selective Review was a different budget than that which was in existence at the time of EYA’s submission of its Forms 471. A copy of the budget in place at the time of EYA’s certifications is attached hereto as Exhibit 2.

On December 3, 2004, in response to EYA’s request in its response to the Selective Review, SLD sent a letter to EYA confirming that the internal connections requested by EYA were canceled “in consultation with the applicant.”¹¹ Thus, EYA still was seeking POTS and Internet access funding. On December 14, 2004, in response to SLD’s request for further information, EYA submitted its board-approved budget for fiscal year 2004-2005 rather than the

⁷ EYA made this determination after concluding that it would no longer be cost-effective to seek dedicated videoconferencing services, and that an Internet access-based solution would be more cost-effective.

⁸ See EYA Selective Review Response, at 5. A copy of the Response is attached hereto as Exhibit 4.

⁹ *Id.* at 6.

¹⁰ *Id.* at 8.

¹¹ A sample copy of SLD’s FCDL is attached hereto as Exhibit 5 (each of the 8 FCDLs is identical in terms of rationale). Further correspondence took place between SLD and EYA in early June 2005, but this correspondence does not appear to be the basis for SLD’s subsequent denial of the Internet access funding requests.

budget for fiscal year 2003-2004, again based on an apparent miscommunication between SLD and EYA.¹² SLD did not ask EYA to submit the actual budget in place at the time of EYA's certifications on its Forms 471, and thus appears to have made its determinations on the budget for July 1, 2004 to June 30, 2005, rather than the budget for July 1, 2003 to June 30, 2004.

On August 16, 2005, SLD issued Funding Commitment Decision Letters ("FCDLs") in which it denied the Forms 471 that are the subject of this appeal, concerning Internet access. The FCDLs stated: "During application review, you were asked to demonstrate that when you filed your Forms 471 you had secured access to the funds needed to pay your portion of the charges, and you were unable to do so."¹³

EYA filed timely appeals of the funding denials to SLD on October 13, 2005. On November 28, 2005, the SLD's Decisions were issued upholding the August 16, 2005 determinations. EYA is now filing this timely appeal of the SLD Decisions.

II. EYA Possessed the Resources Necessary to Fund Its Share

A. EYA's July 1, 2003-June 30, 2004 Budget

EYA made accurate, adequate certifications in its Forms 471 that it possessed the necessary resources to cover the non-discounted portions of its applications. The EYA budget in place at the time it submitted its Form 471 applications for Funding Year 2004-2005 shows that EYA had allocated \$1,233,532 for "Telephone," of which **\$832,551** was allocated for eligible schools in the consortium.¹⁴ The total amount of the seven E-rate funding requests for Internet

¹² A copy of EYA's December 14, 2004 letter and the accompanying fiscal year 2004-2005 EYA budget is attached hereto as Exhibit 6.

¹³ A sample copy of SLD's seven FCDLs is attached hereto as Exhibit 7. The above-quoted language appears on Page 5 of each of the seven FCDLs.

¹⁴ See Exhibit 2, page 10. Subtracting \$400,981 ("Other Departments and Programs" which represent the ineligible programs) from \$1,233,532.00 equals \$832,551. EYA included POTS,

access is \$221,451.84.¹⁵ Since EYA is eligible for 90% discounts, it was required to have sufficient resources to cover the 10% non-discounted portion, i.e., **\$24,605.76**.

The “Telephone” expense line item also includes POTS as well as Internet access expenses. The total amount of POTS funding requests was \$58,434.54.¹⁶ Ten percent of the pre-discount POTS amount of \$64,860.60 is **\$6,426.06**.

Finally, the “Telephone” expense line item also would have been more than sufficient to cover the non-discounted costs of the internal connections requests (which were subsequently canceled at EYA’s request). Specifically, the total amount of internal connections funding requests was \$281,011.50.¹⁷ EYA’s share of the pre-discount amount of \$328,455 is **\$47,443.50**. Thus, the combined non-discounted amounts of POTS (\$6,426.06), Internet access (\$24,605.76) and internal connections (\$47,443.50) total only **\$78,475.32**. As indicated above, EYA had budgeted \$832,551 for such expenses. Consequently, EYA had more than *ten times* the required non-discounted amount available in its Telephone expense line item. It would be irrational to conclude, based on this information, that EYA was ineligible to receive its legitimately requested Internet access funding.

B. The Submitted Budget

As noted above, SLD reviewed a different budget submitted by EYA, due to an apparent miscommunication that remains unresolved. EYA’s technology director submitted the budget

Internet access expenses and internal connections expenses in the “Telephone” line item of its budget for Fiscal Year 2003-2004.

¹⁵ The pre-discount totals for each of the seven Form 471 applications were: 1) \$94,283.40 (423732); 2) \$8,341.20 (427648); 3) \$74,463.00 (428595); 4) \$8,341.20 (428649); 5) \$12,780.60 (428766); 6) \$22,287.00 (429581); and 7) \$25,561.20 (429656), for a total Internet access pre-discount amount of \$246,057.60. All EYA schools within the consortium are eligible for 90% discounts. Ninety percent of \$246,057.60 is \$221,451.84.

¹⁶ This amount of funding was approved by SLD.

¹⁷ The pre-discount amount for eight sites within the consortium was \$36,495.00 each, for a total pre-discount amount of \$291,960. See FCDLs dated December 3, 2005, at 5.

drafted for the following funding year (July 1, 2004-June 30, 2005) and so informed SLD. SLD did not object or ask for the budget in existence at the time that the certifications on the Forms 471 were made (i.e., July 1, 2003-June 30, 2004). Nonetheless, EYA submits that SLD could not have rationally concluded that EYA lacked “necessary resources,” even though it reviewed the submitted draft budget information instead of the correct budget attached hereto as Exhibit 2. Specifically, the same proposed budget was submitted as part of EYA’s Selective Review response in May 2004, and in EYA’s SLD appeal dated October 13, 2005. The proposed budget allocates “Expenses” of \$216,623.04 for “Internet Connection” and \$484,566.96 for “Telephone,” for a total of **\$701,190**.¹⁸ Although this figure is less than the amount actually budgeted by EYA for POTS, Internet access and internal connections in its July 1, 2003-June 30, 2004 budget,¹⁹ it is still more than *eight times* the required \$78,475.32 to cover all non-discounted portions of EYA’s funding requests. Therefore, it was irrational for SLD to conclude, based on the documents before it, that EYA lacked “necessary resources.”

It appears that SLD may have inadvertently looked at the “Revenue” portion of EYA’s budget, in particular at the line items called “Phone lines” and “Internet connections,” and concluded that EYA lacked the necessary resources to fund the non-E-rate portion. However, it is clear that “Revenue” is inapplicable in any assessment of a school’s expenses; the correct area of the budget is the “Expense” section, under which are the line items “Internet connection,” “Telephone.” As shown above, those line items clearly show contain than adequate funding to

¹⁸ See Selective Review response, “Annotated Proposed Technology Budget” at 43 of 54; EYA Appeal dated Oct. 13, 2005, at 4. Unlike the actual budget attached as Exhibit 2, the Annotated Proposed Budget did not include ineligible programs. The Annotated Proposed Budget is prefaced, at page 41, with the statement that the figures “were based on projected budgets and not on an approved budget as to date a final budget for fiscal year 2004-2005 has not yet been approved.” However, as indicated above, there was an approved budget in place for fiscal year 2003-2004, but it was not requested by SLD at the time.

¹⁹ As noted above, EYA actual “Telephone” budget for eligible schools was \$832,551.

cover the non-E-rate portion of EYA's funding requests. In fact, EYA ended up paying for the entire amount of the Internet access for funding year 2004-2005 because of SLD's funding denial. EYA's ability to pay the full amount clearly demonstrates that it possessed the "necessary resources."

C. EYA Complies with All "Necessary Resources" Requirements

The "necessary resources" requirement has its origins in the 1997 *Universal Service Order*. In compliance with that *Order*, E-rate applicants are required to demonstrate that "all of the necessary funding in the current funding year has been budgeted and will have been approved to pay for the 'non-discount' services as well as any necessary hardware, software, and to undertake the necessary staff training in time to use the services effectively."²⁰ In addition, Item 25 of Form 471 requires applicants to examine their technology needs and available technological and budgetary resources before making funding requests.²¹

EYA complies with the *Order*'s requirements and the requirements of Item 25 in all respects. As an initial matter, it is important to note that SLD's conclusion that EYA lacked the "necessary resources" was not based on any finding that EYA lacked necessary hardware, software or staff training. Rather, the SLD asserted that EYA lacked sufficient funding. As shown above, however, EYA budgeted more than adequate funding for POTS, Internet access and internal connections in its budget (both the actual and the submitted budgets). In making its budget allocation, EYA also examined its technology needs and available technological and budget resources. Indeed, the fact that EYA voluntarily decided to cancel its internal

²⁰ *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776, para. 577 (1997) (subsequent history omitted).

²¹ See, e.g., *Request for Review of the Decision of the Universal Service Administrator by New Orleans Public Schools*, Order, 16 FCC Rcd 16653, 12 (CCB rel. Sept. 18, 2001) (citing Item 25 requirements); see also 47 C.F.R. § 54.504(b).

connections request is demonstrable evidence that EYA took its Item 25 certification seriously, and subsequently decided that the internal connections would not meet its technology needs. Therefore, EYA complied with the *Order's* requirements and the Item 25 certification requirements, and SLD's findings to the contrary should be reversed.

A grant of this Request also would be consistent with prior Commission cases examining the "necessary resources" requirement. For example, in *United Talmudical Academy*, the Commission required SLD to review an applicant's entire funding request when conducting a "necessary resources" review, rather than reviewing the requests on an individual FRN basis. A review of EYA's *entire* funding requests reveals that it possessed sufficient funding in the Telephone line item to cover *all* funding requests submitted to SLD for funding year 2004-2005.²²

Finally, the SLD Decisions also appear to state, without support, that a school's budget must cite to specific Form 471 application numbers.²³ EYA submits that SLD is attempting to impose an impossible rule with which to comply. Few if any applicants know what their Form 471 application numbers will be at the time that they approve their budget. In any event, EYA knows of no such Commission requirement.

III. EYA's Request for Internal Connections Was Moot, and Should Not Have Been Considered by SLD During the Budget Review Process

EYA's response to SLD's Selective Review unequivocally demonstrates EYA's decision to abandon internal connections. On at least five separate occasions in the response, EYA indicates that it no longer desired to seek funding for internal connections. SLD simply did not

²² Accordingly, it was inconsistent with Commission precedent for SLD to focus solely on whether or not EYA had secured funding for its internal connections requests, which were eventually canceled.

²³ See SLD Decisions, at 2 ("In addition, the budget provided did not include the application numbers [at issue in this appeal]").

account for EYA's clear cancellation request during the Selective Review process. Moreover, EYA never intended to file Forms 486 for internal connections, and this intention was borne out in EYA's subsequent filings with SLD in the 2004-2005 funding period. Finally, EYA's decision to abandon internal connections funding reflected its decision to make a "mid-course correction[]" in response to new developments," and thus was consistent with Section 54.508(a) of the rules and should not have jeopardized EYA's other funding requests.²⁴ Therefore, SLD's conclusion that EYA had insufficient funding to cover the non-E-rate portion of its funding request was arbitrary and capricious. SLD's error should not prejudice EYA's *bona fide* application for Internet access and the other non-videoconferencing portions of its funding request. The SLD review mechanism clearly could have ascertained, given the Selective Review information supplied by EYA in May 2004, that EYA had amended its 2004-05 goals and budget not to include videoconferencing, and the SLD at that point should not have considered those internal connections requests further. In any event, EYA has shown above in Section II that it possessed the necessary resources to fund all non-discounted portions of its 2004-2005 funding request, including the videoconferencing portion. For these reasons, EYA urges the Division to reverse the SLD Decisions.

IV. Congress Intended that Bona Fide Requests of All Eligible Schools for Telecommunications Services and Internet Access Should Be Granted.

One of the fundamental goals of the universal service provisions of the Telecommunications Act of 1996 was to ensure the ability of schools and libraries to obtain access to advanced telecommunications services.²⁵ Section 254(b) of the Communications Act

²⁴ 47 C.F.R. § 54.508(a)(5).

²⁵ See *Federal-State Joint Board on Universal Service; Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, CC Docket Nos. 96-45 and 97-21, Fifth Order on

of 1934, as amended, requires the Commission to “base policies for the preservation and advancement of universal service on the following principles: . . . Elementary and secondary schools and classrooms . . . should have access to advanced telecommunications services as described in subsection (h) [of this section].”²⁶ Subsection (h)(1)(B) provides that “[a]ll telecommunications carriers serving a geographic area *shall, upon a bona fide request* for any of its services that are within the definition of universal service . . . provide such services to elementary schools, secondary schools, and libraries *for educational purposes* at rates less than the amounts charged for similar services to other parties.”²⁷

The foregoing makes it clear, and the Commission has recognized, that Congress intended that all eligible schools should receive discounts for telecommunications and Internet access. Indeed, the statute imposes only two requirements on a school desiring such discounts. First, the requested services must be for educational purposes. Second, the school must submit a “bona fide request.”²⁸ And the statute commands that when a carrier receives such a request, it “shall” provide service at a discount.

In this case, EYA made a good faith request for POTS, Internet access and internal connections to be used for educational purposes. EYA determined, after conducting a cost/benefit analysis, to cancel its internal connections request but to continue its request for POTS and Internet access funding. The school’s 471 applications were perfectly good applications in all respects. The fact that there were miscommunications between SLD and EYA

Reconsideration, 13 FCC Rcd 14915, 14919 (1998) (citing Joint Explanatory Statement of the Committee of Conference).

²⁶ 47 U.S.C.A. § 254(b)(6).

²⁷ *Id.* § 254(h)(1)(B) (emphasis added).

²⁸ The statute also requires schools with computers having Internet access to comply with Internet safety policies. *Id.* § 254(h)(5). EYA’s member schools fully comply with these policies.

regarding the applicant's budget made EYA's application no less bona fide. Given the overall purpose of the legislation, and the foregoing evidence that EYA certainly had sufficient funding to cover the non-discounted portion of its funding request, the Commission is obligated by statute to reverse SLD's decision to deny EYA's legitimate funding request. A decision otherwise would be contrary to the Commission's mandate to carry out the Congressional purpose that advanced telecommunications services be made available at a discount to schools and libraries making bona fide requests for such services. Because EYA made a bona fide request for Internet access, its request should be granted.

Importantly, there is no evidence of fraud, waste or abuse in this instance. EYA has been forthright and responsive to SLD's often cryptic requests. The foregoing makes clear that EYA complied in all material respects with the requirements of the E-rate process, and unfortunate miscommunications between SLD and EYA should not prejudice EYA's bona fide request for E-rate funds. The Commission's task set out by Congress, and the one delegated to SLD, is not to micromanage the textual language of individual line items in a school's budget, but to allocate E-rate funding to eligible entities based upon evidence of bona fide requests for such funding. Under that standard, EYA complies and should not have its legitimate funding request denied.

V. Commission Precedent Requires a Remand to SLD.

As indicated above, EYA contends that there is ample evidence for the Division to simply reverse SLD's decision and direct that SLD fully fund EYA's 2004-2005 funding request. However, if the Division decides not to reverse SLD's decision outright, EYA submits that Commission precedent requires the Division to remand the case to SLD for handling consistent with the Bureau's decision in *Beginning with Children Charter School*.

In that case, two schools submitted E-rate applications, but their submitted budgets did not demonstrate that they had the ability to pay the full amount of their share of the costs. The Bureau remanded the applications to SLD to allow the schools an opportunity to cure the problems with their originally submitted budgets and demonstrate compliance with the Commission's necessary resources requirements.²⁹

Like the schools in *Beginning with Children Charter School*, EYA should be afforded an opportunity to address any SLD questions about EYA's budget by allowing EYA to demonstrate that necessary resources for the funds were in fact available. EYA has shown in this appeal that the "Telephone" line expense line item for the year 2004-2005 was sufficient to prove that EYA possessed the "necessary resources" as required.

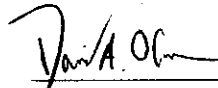
²⁹ *Request for Review of the Decision of the Universal Service Administrator by Beginning with Children Charter School, Brooklyn, New York and Yeshiva Karlin-Stolin, Brooklyn, New York*, Order, CC Docket Nos. 96-45, 97-21, DA 03-245, 18 FCC Rcd 936, ¶ 7 (rel. Jan. 30, 2003).

VI. Conclusion

For the reasons set forth above, EYA urges the Division to reverse the SLD Decisions and direct SLD to fund EYA's Internet access funding requests in full. In the alternative, consistent with the Bureau's decision in *Beginning with Children Charter School*, EYA requests that the Division remand the EYA applications to SLD to allow EYA an opportunity to cure any perceived problems with its originally submitted budget for 2004-2005.

Respectfully submitted,

ECKERD YOUTH ALTERNATIVES, INC.



David A. O'Connor
HOLLAND & KNIGHT LLP
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Suite 100
Washington, DC 20006
(202) 955-3000
Its Counsel

January 27, 2006

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
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Eckerd Youth Alternatives, Inc.)	File No. SLD-_____
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Schools and Libraries Universal Service)	CC Docket No. 02-6
Support Mechanism)	

Supporting Declaration

I, Susan G. Casper, hereby swear under penalty of perjury that I have reviewed the foregoing Request for Review, and that all statements of fact contained therein, except those for which official notice may be taken, are true and correct to the best of my personal knowledge.

Executed this 27th day of January, 2006.



Name: Susan G. Casper
Title: Chief Financial Officer
Eckerd Youth Alternatives, Inc.

EXHIBIT 1



Universal Service Administrative Company
Schools & Libraries Division

Administrator's Decision on Appeal – Funding Year 2004-2005

November 28, 2005

Pamela L. Norris
Eckerd Youth Alternatives, Inc.
100 North Starcrest Drive
Clearwater, FL 33765

Re: Applicant Name: Eckerd Youth Alternative, Inc.
Billed Entity Number: 221272
Form 471 Application Number: 429656
Funding Request Number(s): 1192059
Your Correspondence Dated: October 13, 2005

After thorough review and investigation of all relevant facts, the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC) has made its decision in regard to your appeal of SLD's Funding Year 2004 Funding Commitment Decision Letter for the Application Number indicated above. This letter explains the basis of SLD's decision. The date of this letter begins the 60-day time period for appealing this decision to the Federal Communications Commission (FCC). If your Letter of Appeal included more than one Application Number, please note that you will receive a separate letter for each application.

Funding Request Number(s): 1192059
Decision on Appeal: **Denied**
Explanation:

- On appeal, you encounter the SLD's decision to deny the funding request for failure to demonstrate that when you filed your Form 471, you had secure access to the funds needed to pay your portion of the charges. You state that your consortium has had great difficulty disaggregating your budget line items in a manner consistent with the desires of USAC. You also state that you have had difficulty explaining your Internet access billing because it too contains both eligible and ineligible programs over entire regions with large aggregate bills. You are appealing based on the fact that you have already paid for 100% of these services and closed the year. You state that you had no communication from USAC, after the end of the year, based on your perceived inability to prove that you had the ability to secure funding for 10% of the requested services. In

support of your appeal, you attached the budget documentation provided during the Year Seven Selective review.

- Upon thorough review of the appeal letter, the relevant facts and documentation, it was determined that you did not demonstrate that Eckerd Youth Alternatives, Inc. secured access to the funds needed to pay their portion of the charges, including the cancelled applications, when you filed the Forms 471. During the selective review, you were requested on separate instances, April 23, 2004 and December 3, 2004, to indicate whether Eckerd Youth Alternatives, Inc. had secured their portion of the funding and to provide a copy of the operating budget for 2004-2005 showing both revenues and expenses. On May 18, 2004, you indicated that the consortium did not budget for video conferencing services requested on the following Form 471 Applications: 424349, 419462, 426293, 428839, 428954, 428739, 429066, 426901, and 428650. In addition, the budget provided did not include the above application numbers. On December 14, 2004, you provided an explanation in regards to the cancelled applications stating that "Our consortium may have erred in filing those Forms 471 without a working budget, but by the time budget drafting process began, we were no longer interested in these services as an organization. Therefore, these services were not accounted in either the draft or official budgets for fiscal 2004-2005." Based on the documentation you provided, SLD supports the denial of this non-basic funding request due to your failure to authenticate that the consortium has secured funds to pay for the entire portion of the non-discount E-rate funding, including the cancelled applications. You have failed to provide evidence that SLD has erred in its decision.
- SLD's review of your application indicated that the information you provided during the Item 25 review was not sufficient to demonstrate that, at the time you submitted your Form 471 application, you had secured access to these funds. In your appeal, you did not demonstrate that at the time you submitted your Form 471 application, you had secured access to these funds. Consequently, SLD denies your appeal.
- FCC rules require applicants to certify that, at the time they submit the FCC Form 471, they have secured access to all of the resources, including computers, training, software, maintenance, and electrical connections necessary to make effective use of the products and services purchased as well as to pay the non-discounted charges for eligible products and services. 47 C.F.R. § 54.504(b); FCC Form 471, Block 6 Item 25. SLD reviews this certification by conducting an Item 25 "necessary resources" review. The FCC has emphasized the importance of conducting this review to protect the integrity of the schools and libraries support mechanism. *Request for Review by New Orleans Public Schools, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of National Exchange Carrier Association, Inc.*, CC Docket Nos. 96-45 and 97-21, Order, 16 FCC Rcd. 16,653, DA 01-2097 (rel. Sep. 18, 2001). This rule requires the applicant to pay its service provider the full cost of the non-discounted portion owed to the service provider from the funds budgeted within that funding year.

If your appeal has been approved, but funding has been reduced or denied, you may appeal these decisions to either the SLD or the FCC. For appeals that have been denied in full, partially approved, dismissed, or canceled, you may file an appeal with the FCC. You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be received or postmarked within 60 days of the date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD web site or by contacting the Client Service Bureau. We strongly recommend that you use the electronic filing options.

We thank you for your continued support, patience and cooperation during the appeal process.

Schools and Libraries Division
Universal Service Administrative Company

EXHIBIT 2



Minutes of the Annual Meeting of the
Board of Directors
 Eckerd Youth Alternatives, Inc.
 Highlands, North Carolina
 Thursday, June 26, 2003

ATTENDEES:	BOARD MEMBERS	OTHER ATTENDEES
	Jim Swann, Chair	Joe Crabtree, SVP, Operations
	Joseph Clark	Cathy Martin, SVP Human Resources, Information Technology & Measurement
	Ruth Eckerd	Phil Caudill, SVP, Corporate Development
	Ken O'Herron	Andy Hotaling, NE Regional Finance & Development Director
	Les Smout	John Wilson, VP FL/GA Operations
	Karen V. Waddell	Rusty Barnes, Western NC Regional Director
		Dave Hardesty, Eastern NC Regional Director
		Pat Fried, Director of Measurement & Evaluation
EXCUSED	Rosemary Lassiter	
	Nancy Hart	

Jim Swann called the meeting to order at 9:10 a.m. at the Hampton Inn, Highlands, North Carolina. Joe Clark presented the invocation.

Mr. Swann presented Karen V. Waddell a four-year service award with the Board's thanks.

REVIEW AND APPROVAL OF MINUTES

Mr. Swann presented the minutes of April 23, 2003, Board Meeting for approval. Ms. Waddell suggested the following change be made to the minutes. On page four of the minutes the paragraph that reads, "Ms. Waddell closed her report with two notes: "EYA is compiling with HIPPA (Health Insurance Portability and Accountability Act)." Ms. Waddell suggested the word "compiling" be changed to "complying" so the sentence reads: "EYA is complying with HIPPA (Health Insurance Portability and Accountability Act)."

On a motion by Mr. Clark and seconded by Mr. Swann, the minutes were accepted and approved with the noted correction.

SUCCESS STORIES

Ms. Waddell shared a story of a 15-year old unwed mother currently enrolled in the EYA Georgia Aftercare program who is being adopted by a local family.

PERFORMANCE MEASUREMENT UPDATE

Pat Fried, Director of Measurement and Evaluation, presented to the Board a comprehensive presentation on Performance Measurement. Discussion followed the presentation with Mr. Swann expressing his wish that EYA Management work for balance in its measurement programs with special emphasis on safe practices to benefit both clients and employees. Ms. Waddell informed the Board that management would continue its study of outcome measurements and report further progress to the Board at its fall meeting. Mr. Swann also expressed interest in building methodologies to measure outcomes over longer periods of time.

EYA MODEL

Cathy Martin, SVP Human Resources, Information Technology & Measurement, presented "The Eckerd Model," a project to define the core elements of an EYA residential program.

Ms. Martin explained the project's goal was to advance the EYA philosophy, to encourage alignment and standardization across the organization, to create a road map for performance improvement and to help identify new outcome measures.

Mr. Swann requested that the Board review the EYA Model handout and provide feedback to management within the first quarter of FY2004.

PRESIDENT'S REPORT

Ms. Waddell began the President's Report by introducing a short video presentation that summarized FY2003. Phil Caudill, Sr. VP Corporate Development, presented Mrs. Eckerd with a scrapbook containing birthday good wishes and expressions of good will to Mr. Eckerd from President Bush, members of Congress, the legislature of North Carolina, the employees of the Clearwater office as well as several children in EYA programs. Mr. Caudill explained that other similar documents that were too large for the binder would be sent to Mrs. Eckerd next week. He also presented Mrs. Eckerd with a videocassette copy of the EYA FY2003 Year in Review that had just been viewed by the Board.

Andy Hotaling, NE Regional Finance & Development Director, presented an overview of FY2003 financial performance through the first 11 months of the fiscal year.

Ms. Martin presented a report on progress attained toward reaching FY2003 corporate goals.

Mr. Swann requested that management consider how EYA could develop one or more family services on a private pay model to assist families struggling with troubled children.